

**SENATE JOURNAL
61ST LEGISLATURE
EIGHTY-FIRST LEGISLATIVE DAY**

Helena, Montana
April 16, 2009

Senate Chambers
State Capitol

Senate convened at 10:00 a.m. President Story presiding. Invocation by Pastor Keith Johnson. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senators Gillan, Juneau, Schmidt, and Williams, excused. Quorum present.

Senator Juneau present at this time.

BILLS AND JOURNALS:

4/16/2009

Correctly printed: **SJR 33, SJR 36, SJR 37, SJR 38, SJR 39, HJR 31, HB 262, HB 312, HB 315, HB 575, HB 598, HB 615, HB 674.**

Correctly engrossed: **SJR 35, HB 636, HB 658, HB 669, HB 678.**

Correctly enrolled: **SR 25, SR 29, SR 30, SR 31, SB 257, SB 356, SB 464.**

Examined by the sponsor and found to be correct: **SB 356, SB 464, SR 25, SR 29, SR 30, SR 31.**

REPORTS OF STANDING COMMITTEES

STATE ADMINISTRATION (Shockley, Chairman):

4/15/2009

SR 33, be adopted. Report adopted.

SR 34, be adopted. Report adopted, as amended.

SR 35, be adopted. Report adopted.

SR 37, be adopted. Preliminary report adopted.

HJR 35, be concurred in. Report adopted.

EDUCATION AND CULTURAL RESOURCES (Laible, Chairman):

4/15/2009

SR 38, be adopted. Report adopted.

MESSAGES FROM THE OTHER HOUSE

Senate amendments to House bills concurred in:

4/15/2009

HB 123, introduced by Jones

HB 670, introduced by Vincent

Senate bills concurred in and returned to the Senate:

4/15/2009

SB 257, introduced by Keane

SB 356, introduced by Zinke

SB 464, introduced by Laslovich

Senate bills concurred in as amended and returned to the Senate for concurrence in House amendments:

4/15/2009

SB 260, introduced by Gillan

SB 263, introduced by Shockley

SB 418, introduced by Branae

SB 460, introduced by Story

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SB 465, introduced by Hamlett
SB 467, introduced by Balyeat
SB 489, introduced by Essmann
SB 491, introduced by Lewis
SB 507, introduced by Story
SB 508, introduced by Brueggeman

Senate bill not concurred in and returned to the Senate: 4/15/2009

SB 370, introduced by Perry

Conference Committee Report No.1 adopted: 4/15/2009

SB 305, introduced by Tutvedt
SB 404, introduced by Brueggeman

MOTIONS

Senator Gillan present at this time.

Senator J. Tropila moved to reconsider action to adopt the Committee of the Whole report the 80th Legislative day.

Yeas: Black, Branae, T. Brown, Brueggeman, Cooney, Erickson, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Lewis, Moss, Murphy, Perry, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy.
Total 32

Nays: Bales, Balyeat, Barkus, Barrett, Brenden, R. Brown, Curtiss, Esp, Essmann, Gallus, Hinkle, Laslovich, McGee, Peterson, Ripley, Shockley, Zinke, Mr. President.
Total 18

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator J. Tropila moved to reconsider the action to indefinitely postpone **HB 662**.

Yeas: Black, Branae, T. Brown, Brueggeman, Cooney, Erickson, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Lewis, Moss, Murphy, Perry, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke.
Total 32

Nays: Bales, Balyeat, Barkus, Barrett, Brenden, R. Brown, Curtiss, Esp, Essmann, Gallus, Hinkle, Laslovich, McGee, Peterson, Ripley, Shockley, Tutvedt, Mr. President.
Total 18

Absent or not voting: None.
Total 0

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Excused: None.
Total 0

Senator J. Tropila moved to reconsider action on **HB 662** on second reading on the 80th Legislative day.

Yeas: Black, Branae, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.
Total 33

Nays: Bales, Balyeat, Barkus, Barrett, Brenden, R. Brown, Esp, Essmann, Gallus, Hinkle, McGee, Peterson, Ripley, Shockley, Tutvedt, Zinke, Mr. President.
Total 17

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator J. Tropila moved **HB 662** be placed on second reading this day. Motion carried.

Senator Peterson moved to adopt the Committee of the Whole Report for the 80th Legislative day. Motion carried.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Barkus in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

HB 655 - Senator Hamlett moved **HB 655** be concurred in. Motion carried as follows:

Yeas: Bales, Barkus, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke.
Total 44

Nays: Balyeat, Barrett, Esp, Hinkle, Peterson, Mr. President.
Total 6

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 656 - Senator J. Tropila moved **HB 656** be concurred in. Motion carried as follows:

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Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.

Total 45

Nays: Curtiss, Hinkle, Jackson, McGee, Windy Boy.

Total 5

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 657 - Senator Black moved **HB 657** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: Jackson.

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 119 - House Amendments - Senator Esp moved House amendments to **SB 119** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

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SB 131 - Senator J. Peterson moved consideration of **SB 131** be placed at the bottom of the second reading board. Motion carried.

SB 176 - House Amendments - Senator Perry moved House amendments to **SB 176** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 271 - Senator J. Peterson moved consideration of **SB 271** be placed at the bottom of the second reading board. Motion carried.

SB 369 - House Amendments - Senator Esp moved House amendments to **SB 369** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator Squires excused at this time.

Senator Curtiss excused at this time.

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SB 403 - House Amendments - Senator Gebhardt moved House amendments to **SB 403** be concurred in. Motion carried as follows:

Yeas: Bales, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hinkle, Jackson, Keane, Laible, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.
Total 30

Nays: Balyeat, Branae, Brueggeman, Cooney, Erickson, Hawks, Jent, Juneau, Kaufmann, Larsen, Moss, Schmidt, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.
Total 18

Absent or not voting: None.
Total 0

Excused: Curtiss, Squires.
Total 2

Senator Curtiss present at this time.
Senator Squires present at this time.

HB 55 - Governor's Amendments - Senator Laslovich moved Governor's amendments to **HB 55** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Esp excused at this time.

HB 418 - House Amendments - Senator Zinke moved House amendments to **HB 418** be **not** concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hinkle, Jackson, Jent, Kaufmann, Keane, Laible, Larsen, Lewis, McGee, Moss, Murphy, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 44

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Nays: Brueggeman, Hawks, Juneau, Laslovich, Perry.
Total 5

Absent or not voting: None.
Total 0

Excused: Esp.
Total 1

Senator Esp present at this time.

SB 48 - Conference Committee Report No. 1 - Senator Essmann moved the Conference Committee report to **SB 48** be adopted. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 305 - Conference Committee Report No. 1 - Senator Tutvedt moved the Conference Committee report to **SB 305** be adopted. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 310 - Conference Committee Report No. 1 - Senator Shockley moved the Conference Committee report to **SB 310** be adopted. Motion carried as follows:

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Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 404 - Conference Committee Report No. 1 - Senator Brueggeman moved the Conference Committee report to **SB 404** be adopted. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 427 - Free Conference Committee Report No. 1 - Senator Laslovich moved the Free Conference Committee report to **SB 427** be adopted. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

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Excused: None.
Total 0

SB 131 - House Amendments - Senator Williams moved House amendments to **SB 131** be concurred in. Motion carried as follows:

Yeas: Branae, Brueggeman, Cooney, Curtiss, Erickson, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke.
Total 31

Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Esp, Essmann, Hinkle, Jackson, McGee, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Mr. President.
Total 19

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 271 - House Amendments - Senator Squires moved House amendments to **SB 271** be concurred in. Motion carried as follows:

Yeas: Branae, Brueggeman, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Perry, Peterson, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 29

Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Ripley, Shockley, Tutvedt.
Total 21

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Peterson moved the committee rise, report progress, and beg leave to sit again. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman Barkus moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

HB 262 concurred in as follows:

Yeas: Branae, Brueggeman, Cooney, Erickson, Esp, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau,

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Kaufmann, Keane, Laible, Larsen, Laslovich, Moss, Schmidt, Shockley, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 29

Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Curtiss, Essmann, Gebhardt, Hinkle, Jackson, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Steinbeisser, Tutvedt.

Total 21

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 312 concurred in as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, T. Brown, Brueggeman, Cooney, Erickson, Gebhardt, Gillan, Hamlett, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Laslovich, Lewis, Moss, Perry, Peterson, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.

Total 34

Nays: Balyeat, Brenden, R. Brown, Curtiss, Esp, Essmann, Gallus, Hansen, Hinkle, Jackson, Larsen, McGee, Murphy, Shockley, M. Tropila, Windy Boy.

Total 16

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 315 concurred in as follows:

Yeas: Barrett, Black, Branae, Brueggeman, Cooney, Erickson, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, Moss, Perry, Peterson, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Zinke.

Total 31

Nays: Bales, Balyeat, Barkus, Brenden, R. Brown, T. Brown, Curtiss, Esp, Essmann, Hinkle, Laible, McGee, Murphy, Ripley, Shockley, Steinbeisser, Tutvedt, Windy Boy, Mr. President.

Total 19

Absent or not voting: None.

Total 0

Excused: None.

Total 0

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HB 575 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Gillan, Hansen, Hinkle, Jackson, Keane, Laible, Laslovich, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.

Total 30

Nays: Branae, T. Brown, Cooney, Erickson, Gallus, Hamlett, Hawks, Jent, Juneau, Kaufmann, Larsen, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.

Total 20

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 598 concurred in as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 49

Nays: Hinkle.

Total 1

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 615 concurred in as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.

Total 42

Nays: Balyeat, Brenden, R. Brown, Hinkle, Juneau, Shockley, Stewart-Peregoy, Windy Boy.

Total 8

Absent or not voting: None.

Total 0

Excused: None.

Total 0

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HB 674 received the following vote (two-thirds vote required):

Yeas: Branae, Brueggeman, Cooney, Erickson, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Moss, Murphy, Perry, Schmidt, Shockley, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Zinke.

Total 28

Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Curtiss, Esp, Essmann, Gallus, Hinkle, Jackson, Lewis, McGee, Peterson, Ripley, Steinbeisser, Tutvedt, Windy Boy, Mr. President.

Total 22

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Pursuant to Senate Rule S50-100(2) on bills proposing an amendment to the Montana Constitution, **HB 674** will **not** progress since it did not receive the required two-thirds vote.

SJR 33 passed as follows:

Yeas: Bales, Balyeat, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 48

Nays: Barkus, Esp.

Total 2

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SJR 36 passed as follows:

Yeas: Black, Branae, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Schmidt, Shockley, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.

Total 35

Nays: Bales, Balyeat, Barkus, Barrett, Brenden, R. Brown, Esp, Hinkle, Laible, McGee, Ripley, Steinbeisser, Tutvedt, Zinke, Mr. President.

Total 15

Absent or not voting: None.

Total 0

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Excused: None.
Total 0

SJR 37 passed as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 46

Nays: Balyeat, Esp, McGee, Shockley.
Total 4

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SJR 38 passed as follows:

Yeas: Black, Branae, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Schmidt, Shockley, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke.
Total 33

Nays: Bales, Balyeat, Barkus, Barrett, Brenden, Esp, Gallus, Gebhardt, Hinkle, Jackson, Laible, McGee, Peterson, Ripley, Steinbeisser, Tutvedt, Mr. President.
Total 17

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SJR 39 passed as follows:

Yeas: Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.
Total 42

Nays: Bales, Balyeat, Erickson, Esp, Laible, McGee, Shockley, Windy Boy.
Total 8

Absent or not voting: None.
Total 0

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Excused: None.
Total 0

MOTIONS

Senator Black moved to change his vote on **SB 131** from yes to no. Without objection, so ordered.

Senator Peterson moved that the Senate recess until 1:00 p.m. Motion carried.

Senate in recess.

Senate reconvened.

Roll Call: All members present, except Senators Juneau, Schmidt, Keane, Perry, excused. Quorum present.

MOTIONS

Senator Peterson moved the Senate recess until 1:20 p.m. for the purpose of caucuses. Motion carried.

Senate in recess.

Roll Call: All members present, except Senators Jackson, Laslovich, and Schmidt, excused. Quorum present.

REPORTS OF STANDING COMMITTEES

FINANCE AND CLAIMS (Bales, Chairman):

4/16/2009

HB 97, be concurred in. Report adopted.

HB 130, be amended as follows:

1. Title, line 5.

Following: "MATCHING"

Insert: "MATCHING"

2. Page 2, line 7.

Following: "~~matching fund~~"

Insert: "matching fund"

3. Page 2.

Following: line 10

Insert: "matching"

4. Page 2, line 20.

Following: "STATE."

Insert: "The department shall develop a sliding scale for state grants based upon the historical county use of the state hospital with a high-use county receiving a lower percentage of matching funds. The sliding scale must be based upon the number of commitments by county compared to total commitments and upon the population of each county compared to the state population."

5. Page 2, line 21.

Following: "matching"

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Insert: "matching"

And, as amended, be concurred in. Report adopted.

HB 131, be amended as follows:

1. Page 3, line 15.

Strike: "SEPTEMBER 1, 2009"

Insert: "July 1, 2010"

2. Page 3, line 16.

Strike: "2010"

Insert: "2011"

And, as amended, be concurred in. Report adopted.

HB 135, be concurred in. Report adopted.

HB 154, be concurred in. Report adopted.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Barkus in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

Senator Schmidt present at this time.

Senator Laslovich present at this time.

Senator Jackson present at this time.

HB 658 - Senator Essmann moved **HB 658** be concurred in.

HB 658 - Senator Essmann moved **HB 658**, second reading copy, be amended as follows:

1. Title, page 1, line 7 through line 8.

Strike: "INCREASING" on line 7 through "PROGRAM;" on line 8

2. Page 24, line 19.

Following: "BOARDS"

Insert: ", school districts,"

3. Page 24, line 24 through line 25.

Strike: "[THIS ACT] CHANGES ELIGIBILITY CRITERIA FOR" on lines 24 and 25

Insert: "the application deadlines for"

Strike: "THE EXEMPTION RATE FORMULAS FOR" on line 25

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4. Page 24, line 26 through line 27.

Strike: "AND THE" on line 26 through "APPLICATION DEADLINES FOR THOSE PROGRAMS"

Amendment adopted as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 658 - Senator Essmann moved **HB 658**, second reading copy, be amended as follows:

1. Page 14, line 8.

Strike: "\$40"

Insert: "\$50"

Amendment adopted as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 658 - Senator Kaufmann moved **HB 658**, second reading copy, be amended as follows:

1. Title, page 1, line 6.

Following: "REAPPRAISAL;"

Insert: "ESTABLISHING THE MONTANA PROPERTY TAX REDUCTION ACT; PROVIDING DEFINITIONS;
ESTABLISHING A REFUNDABLE INCOME TAX CREDIT FOR A PORTION OF PROPERTY TAXES

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PAID; ESTABLISHING A METHOD FOR CALCULATING THE CREDIT; GRANTING THE DEPARTMENT OF REVENUE AUTHORITY TO DENY CERTAIN CLAIMS; ESTABLISHING A PENALTY FOR FALSE OR FRAUDULENT CLAIMS; GRANTING THE DEPARTMENT OF REVENUE RULEMAKING AUTHORITY; ELIMINATING THE EXTENDED PROPERTY TAX ASSISTANCE PROGRAM;"

2. Title, page 1, line 7 through line 8.

Strike: "INCREASING" on line 7 through "PROGRAM;" on line 8

3. Title, page 1, line 30.

Following: "OF"

Insert: "THE"

4. Title, page 2, line 1.

Strike: "ASSISTANCE PROGRAMS"

Insert: "REDUCTION ACT"

5. Title, page 2, line 2 through line 3.

Strike: "THE" on line 2 through "AND" on line 3

6. Title, page 2, line 7.

Following: line 6

Insert: "2-15-122, 5-2-301,"

7. Title, page 2, line 8.

Strike: "AND"

Insert: "15-16-102,"

Following: "15-44-103,"

Insert: "47-1-111, 53-4-1103, AND 53-6-1001,"

8. Title, page 2, line 10.

Following: "MCA,"

Insert: "REPEALING SECTIONS 15-6-191, 15-6-193, 15-6-211, 15-30-171, 15-30-172, 15-30-173, 15-30-174, 15-30-175, 15-30-176, 15-30-177, 15-30-178, AND 15-30-179, MCA;"

9. Page 2, line 16.

Insert: "NEW SECTION. **Section 1. Short title.** [Sections 1 through 8] may be cited as the "Montana Property Tax Reduction Act"."

Insert: "NEW SECTION. **Section 2. Purpose.** The purpose of [sections 1 through 8] is to provide property tax reductions in the form of a refundable income tax credit to certain persons who own or rent a qualified residence."

Insert: "NEW SECTION. **Section 3. Definitions.** As used in [sections 1 through 8], the following definitions apply:

(1) "Claimant" means a person who files a claim for property tax reductions as authorized by [sections 1 through 8] and who was a resident of this state for at least 7 months during the calendar year for which the claim was filed. A claimant must have resided, as either an owner or renter, in a qualified residence for at least 7 months during the calendar year for which a claim is filed.

(2) "Deceased veteran" means a person who was killed while on active duty or dies as a result of a service-connected disability.

(3) "Disabled veteran" means a person who:

(a) was honorably discharged from active service in any branch of the armed services; and

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(b) is currently rated 100% disabled or is paid at the 100% disabled rate by the U.S. department of veterans affairs for a service-related disability, as verified by official documentation from the U.S. department of veterans affairs.

(4) "Gross rent" means the total rent in cash or its equivalent actually paid during the claim period by the renter or lessee for the right of occupancy of a qualified residence pursuant to an arm's-length transaction with a property owner or the owner's agent.

(5) "Household" means all individuals residing in a qualified residence who cannot be claimed on another individual's income tax return as a dependent.

(6) "Household income" means the total income of a household as reported on the tax return or returns required by this chapter for the year in which the credit is being claimed excluding losses and before any federal or state adjustments to income. In cases in which the claimant is not required to file a tax return under this chapter, household income means the total household income as it would have been reported had the claimant been required to file a return.

(7) "Property taxes" means taxes billed against a qualified residence, including special assessments and fees but excluding penalties and interest during the claim period. Property taxes do not include special assessments or voted mill levies billed after December 31, 2011.

(8) "Qualified residence" means any class four residential dwelling that is a single-family dwelling unit, unit of a multiple-unit dwelling, trailer, manufactured home, or mobile home and as much of the surrounding land, not exceeding 1 acre, as is reasonably necessary for its use as a dwelling. A qualified residence must be occupied by a claimant for at least 7 months during the year for which a claim is made.

(9) "Rent constituting property taxes" means 15% of the gross rent actually paid by a claimant for the right of occupancy of a qualified residence for which the claimant has submitted a claim.

(10) "Surviving spouse of a deceased veteran" means, if the surviving spouse has not remarried, an individual who was married to a veteran who, during the course of the marriage:

(a) was killed while on active duty; or

(b) died as a result of a service-connected disability."

Insert: "NEW SECTION. Section 4. Income tax credit for property taxes paid. (1) There is a credit against the taxes imposed by this chapter for a portion of the property taxes paid by a claimant as provided by [sections 1 through 8].

(2) If the amount of the credit exceeds the claimant's liability under this chapter, the amount of the excess must be refunded to the claimant.

(3) A claimant required to file a tax return under this chapter shall submit a claim for the credit with the claimant's tax return.

(4) A claimant not required to file a tax return under this chapter may submit a claim for the credit.

(5) Claims for the credit must be made on a form prescribed by the department and must be filed no later than April 15 of the year following the year for which credit is sought.

(6) The department may grant a reasonable extension for filing a claim whenever, in its judgment, good cause exists.

(7) In the event that an individual who would have a claim under [sections 1 through 8] dies before filing the claim, the personal representative of the estate of the decedent may file the claim.

(8) The department or an individual may revise a return and an individual may make a claim under [sections 1 through 8] within 5 years from the last day prescribed for filing a claim for reduction.

(9) Only one claim may be made with respect to any qualified residence."

Insert: "NEW SECTION. Section 5. Calculation of credit. (1) The credit provided for in [section 4] is calculated based on a claimant's income as set out in column A of the table in subsection (6).

(2) A claimant who owned and occupied a qualified residence may claim a credit for property taxes billed to the extent that the property taxes billed exceed the claimant's household income as set out in column B of the table in subsection (6).

(3) A claimant who rented or leased a qualified residence may claim a credit for rent constituting property taxes to the extent that the rent constituting property taxes paid exceeds the claimant's household income as set out in column B of the table in subsection (6).

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(4) A claimant who turns 62 years of age or older during the year for which a claim is made may claim a credit for property taxes billed or rent constituting property taxes paid to the extent that the property taxes billed or rent constituting property taxes paid exceeds the claimant's household income as set out in column C of the table in subsection (6).

(5) A claimant who is a disabled veteran or the surviving spouse of a deceased veteran may claim a credit for property taxes billed or rent constituting property taxes paid to the extent that the property taxes billed or rent constituting property taxes paid exceeds the claimant's household income as set out in column D of the table in subsection (6).

(6) The following table must be used to calculate the credit provided for in [section 4]:

Column A Income	Column B Standard	Column C Senior	Column D Veteran
\$0 - \$10,500	2.5%	0%	0%
\$10,501 - \$26,000	3%	2%	0%
\$26,001 - \$39,000	3%	3%	0%
\$39,001 - \$45,000	3.5%	3.5%	1%
\$45,001 - \$60,000	3.5%	3.5%	3.5%

(7) A claimant who qualifies for a tax credit under more than one subsection of this section may claim the credit that provides the claimant with the greatest benefit.

(8) (a) Unless a claimant is a disabled veteran or the surviving spouse of a deceased veteran entitled to a credit under subsection (5), the maximum credit authorized by this section is \$1,500.

(b) The maximum credit authorized for a claimant entitled to a credit under subsection (5) is \$2,000.

(9) By November 1 of each year, the department shall multiply the column A income bracket amounts contained in subsection (6) by the inflation factor for that tax year, but using the consumer price index for June 2009, and round the cumulative brackets to the nearest \$100. The resulting adjusted brackets are effective for that tax year and must be used as the basis for the determination of the tax credit authorized by this section."

Insert: "NEW SECTION. Section 6. Denial of claims. The department may deny claims if the department determines the claims or the claimants do not qualify pursuant to the terms of [sections 1 through 8] or if the department determines that a false or fraudulent claim has been filed."

Insert: "NEW SECTION. Section 7. False or fraudulent claims. A claimant who submits a false or fraudulent claim is guilty of false swearing under 45-7-202. In addition to the penalties available under 45-7-202, any claim granted as the result of a false or fraudulent claim may be recaptured by the department."

Insert: "NEW SECTION. Section 8. Rulemaking authority. The department may adopt rules necessary to implement, administer, and enforce [sections 1 through 8]."

Insert: "Section 9. Section 2-15-122, MCA, is amended to read:

"2-15-122. Creation of advisory councils. (1) (a) A department head or the governor may create advisory councils.

(b) An agency or an official of the executive branch of state government other than a department head or the governor, including the superintendents of the state's institutions and the presidents of the units of the state's university system, may also create advisory councils but only if federal law or regulation requires that the official or agency create the advisory council as a condition to the receipt of federal funds.

(c) The board of public education, the board of regents of higher education, the state board of education, the attorney general, the state auditor, the secretary of state, and the superintendent of public instruction may create advisory councils, which shall serve at their pleasure, without the approval of the governor. The creating authority shall file a record of each council created by it in the office of the governor and the office of the secretary of state in accordance with subsection (9).

(2) Each advisory council created under this section must be known as the ".... advisory council".

(3) The creating authority shall:

(a) prescribe the composition and advisory functions of each advisory council created;

(b) appoint its members, who shall serve at the pleasure of the creating authority; and

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(c) specify a date when the existence of each advisory council ends.

(4) Advisory councils may be created only for the purpose of acting in an advisory capacity, as defined in 2-15-102.

(5) (a) Unless an advisory council member is a full-time salaried officer or employee of this state or of any political subdivision of this state, the member is entitled to be paid in an amount to be determined by the department head, not to exceed \$50 for each day in which the member is actually and necessarily engaged in the performance of council duties and to be reimbursed for travel expenses, as provided for in 2-18-501 through 2-18-503, incurred while in the performance of council duties. The maximum daily pay rate must be adjusted for inflation annually using the formula provided in ~~15-6-134(2)(b)(ii) and (2)(b)(iii)~~, except that the base income level and appropriate dollar amount must be \$50 a day subsection (11).

(b) Members who are full-time salaried officers or employees of this state or of any political subdivision of this state are not entitled to be compensated for their service as members but are entitled to be reimbursed for travel expenses, as provided for in 2-18-501 through 2-18-503.

(6) Unless otherwise specified by the creating authority, at its first meeting in each year, an advisory council shall elect a presiding officer and other officers that it considers necessary.

(7) Unless otherwise specified by the creating authority, an advisory council shall meet at least annually and shall also meet on the call of the creating authority or the governor and may meet at other times on the call of the presiding officer or a majority of its members. An advisory council may not meet outside the city of Helena without the express prior authorization of the creating authority.

(8) A majority of the membership of an advisory council constitutes a quorum to do business.

(9) Except as provided in subsection (1)(c), an advisory council may not be created or appointed by a department head or any other official without the approval of the governor. In order for the creation or approval of the creation of an advisory council to be effective, the governor shall file in the governor's office and in the office of the secretary of state a record of the council created showing:

(a) the council's name, in accordance with subsection (2);

(b) the council's composition;

(c) the appointed members, including names and addresses;

(d) the council's purpose; and

(e) the council's term of existence, in accordance with subsection (10).

(10) An advisory council may not be created to remain in existence longer than 2 years after the date of its creation or beyond the period required to receive federal or private funds, whichever occurs later, unless extended by the appointing authority in the manner set forth in subsection (1). If the existence of an advisory council is extended, the appointing authority shall specify a new date, not more than 2 years later, when the existence of the advisory council ends and file a record of the order in the office of the governor and the office of the secretary of state. The existence of any advisory council may be extended as many times as necessary.

(11) (a) The income levels contained in subsection (5) must be adjusted for inflation annually. The adjustment to the income levels is determined by:

(i) multiplying \$50 by the ratio of the PCE for the second quarter of the year prior to the year of application to the PCE for the second quarter of 1995; and

(ii) rounding the product obtained to the nearest whole dollar amount.

(b) "PCE" means the implicit price deflator for personal consumption expenditures as published quarterly in the Survey of Current Business by the bureau of economic analysis of the U.S. department of commerce."

Insert: "Section 10. Section 5-2-301, MCA, is amended to read:

"5-2-301. Compensation and expenses for members while in session. (1) Legislators are entitled to a salary commensurate to that of the daily rate for an employee earning \$10.33 an hour when the regular session of the legislature in which they serve is convened under 5-2-103 for those days during which the legislature is in session. The hourly rate must be adjusted by any statutorily required pay increase. The president of the senate and the speaker of the house must receive an additional \$5 a day in salary for those days during which the legislature is in session.

(2) Legislators may serve for no salary.

(3) Subject to subsection (4), legislators are entitled to a daily allowance, 7 days a week, during a legislative session, as reimbursement for expenses incurred in attending a session. Expense payments must stop when the

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legislature recesses for more than 3 days and resume when the legislature reconvenes.

(4) After November 15, and prior to December 15 of each even-numbered year, the department of administration shall conduct a survey of the allowance for daily expenses of legislators for the states of North Dakota, South Dakota, Wyoming, and Idaho. The department shall include the average daily expense allowance for Montana legislators in determining the average daily rate for legislators. The department shall include only states with specific daily allowances in the calculation of the average. If the average daily rate is greater than the daily rate for legislators in Montana, legislators are entitled to a new daily rate for those days during which the legislature is in session. The new daily rate is the daily rate for the prior legislative session, increased by the percentage rate increase as determined by the survey, a cost of living increase to reflect inflation that is calculated pursuant to ~~15-6-134~~ subsection (8), or 5%, whichever is less. The expense allowance is effective when the next regular session of the legislature in which the legislators serve is convened under 5-2-103.

(5) Legislators are entitled to a mileage allowance as provided in 2-18-503 for each mile of travel to the place of the holding of the session and to return to their place of residence at the conclusion of the session.

(6) In addition to the mileage allowance provided for in subsection (5), legislators, upon submittal of an appropriate claim for mileage reimbursement to the legislative services division, are entitled to:

(a) three additional round trips to their place of residence during each regular session; and

(b) additional round trips as authorized by the legislature during special session.

(7) Legislators are not entitled to any additional mileage allowance under subsection (5) for a special session if it is convened within 7 days of a regular session.

(8) (a) The income levels contained in subsection (4) must be adjusted for inflation annually. The adjustment to the income levels is determined by:

(i) multiplying the appropriate dollar amount by the ratio of the PCE for the second quarter of the year prior to the year of application to the PCE for the second quarter of 1995; and

(ii) rounding the product obtained to the nearest whole dollar amount.

(b) "PCE" means the implicit price deflator for personal consumption expenditures as published quarterly in the Survey of Current Business by the bureau of economic analysis of the U.S. department of commerce."

Renumber: subsequent sections

10. Page 2, line 25.

Strike: "(1)(f)"

Insert: "(1)(e)"

Strike: "(1)(g)"

Insert: "(1)(f)"

11. Page 2, line 27.

Strike: "(1)(f)"

Insert: "(1)(e)"

Strike: "(1)(g)"

Insert: "(1)(f)"

12. Page 2, line 30 through page 3, line 7.

Strike: subsection (c) in its entirety

Renumber: subsequent subsections

13. Page 3, line 14.

Following: "units;"

Insert: "and"

14. Page 3, line 17.

Strike: subsection (iv) in its entirety

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15. Page 3, line 22.

Strike: "(1)(e)"

Insert: "(1)(d)"

Strike: "(1)(g)"

Insert: "(1)(f)"

16. Page 3, line 29 through page 4, line 18.

Strike: subsection (b) in its entirety

Renumber: subsequent subsection

17. Page 4, line 19.

Strike: "(1)(d)"

Insert: "(1)(c)"

18. Page 9, line 22.

Strike: "(1)(e)"

Insert: "(1)(d)"

Strike: "(1)(f)"

Insert: "(1)(e)"

19. Page 9, line 29.

Strike: "FOR SINGLE-FAMILY RESIDENTIAL DWELLINGS, THE"

Insert: "The"

20. Page 9, line 30.

Strike: "\$1.5 MILLION"

Insert: "\$600,000"

21. Page 10, line 1.

Strike: "(1)(g)"

Insert: "(1)(f)"

22. Page 10, line 28 through line 30.

Strike: the first "assistance" on line 28 through "15-30-179" on line 30

Insert: "reduction provisions in [sections 1 through 8]"

23. Page 18, line 17 through line 19.

Strike: the first "assistance" on line 17 through "15-30-179" on line 19

Insert: "reduction provisions in [sections 1 through 8]"

24. Page 19, line 2.

Insert: "**Section 21.** Section 15-16-102, MCA, is amended to read:

"15-16-102. Time for payment -- penalty for delinquency. Unless suspended or canceled under the provisions of 10-1-606 or Title 15, chapter 24, part 17, all taxes levied and assessed in the state of Montana, except assessments made for special improvements in cities and towns payable under 15-16-103, are payable as follows:

(1) One-half of the taxes are payable on or before 5 p.m. on November 30 of each year or within 30 days after the tax notice is postmarked, whichever is later, and one-half are payable on or before 5 p.m. on May 31 of each year.

(2) Unless one-half of the taxes are paid on or before 5 p.m. on November 30 of each year or within 30 days

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after the tax notice is postmarked, whichever is later, the amount payable is delinquent and draws interest at the rate of 5/6 of 1% a month from and after the delinquency until paid and 2% must be added to the delinquent taxes as a penalty.

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(3) All taxes due and not paid on or before 5 p.m. on May 31 of each year are delinquent and draw interest at the rate of 5/6 of 1% a month from and after the delinquency until paid, and 2% must be added to the delinquent taxes as a penalty.

(4) ~~(a)~~ If the date on which taxes are due falls on a holiday or Saturday, taxes may be paid without penalty or interest on or before 5 p.m. of the next business day in accordance with 1-1-307.

~~(b) If taxes on property qualifying under the low-income property tax assistance provisions of 15-6-134(1)(c) and 15-6-191 are paid within 20 calendar days of the date on which the taxes are due, the taxes may be paid without penalty or interest. If a tax payment is made later than 20 days after the taxes were due, the penalty must be paid and interest accrues from the date on which the taxes were due.~~

(5) (a) A taxpayer may pay current year taxes without paying delinquent taxes. The county treasurer shall accept a partial payment equal to the delinquent taxes, including penalty and interest, for one or more full tax years if taxes for both halves of the current tax year have been paid. Payment of taxes for delinquent taxes must be applied to the taxes that have been delinquent the longest. The payment of taxes for the current tax year is not a redemption of the property tax lien for any delinquent tax year.

(b) A payment by a co-owner of an undivided ownership interest that is subject to a separate assessment otherwise meeting the requirements of subsection (5)(a) is not a partial payment.

(6) The penalty and interest on delinquent assessment payments for specific parcels of land may be waived by resolution of the city council. A copy of the resolution must be certified to the county treasurer.

(7) If the department revises an assessment that results in an additional tax of \$5 or less, an additional tax is not owed and a new tax bill does not need to be prepared.

(8) The county treasurer may accept a partial payment of centrally assessed property taxes as provided in 76-3-207."

25. Page 24, line 13.

Insert: "Section 23. Section 47-1-111, MCA, is amended to read:

"47-1-111. Eligibility -- determination of indigence -- rules. (1) (a) ~~Beginning July 1, 2006, when~~ When a court orders the office to assign counsel, the office shall immediately assign counsel prior to a determination under this section.

(b) If the person for whom counsel has been assigned is later determined pursuant to this section to be ineligible for public defender services, the office shall immediately notify the court so that the court's order may be rescinded.

(c) A person for whom counsel is assigned is entitled to the full benefit of public defender services until the court's order requiring the assignment is rescinded.

(d) Any determination pursuant to this section is subject to the review and approval of the court.

(2) (a) An applicant who is eligible for a public defender only because the applicant is indigent shall also provide a detailed financial statement and sign an affidavit.

(b) The application, financial statement, and affidavit must be on a form prescribed by the commission.

(c) Information disclosed in the application, financial statement, or affidavit is not admissible in a civil or criminal action except when offered for impeachment purposes or in a subsequent prosecution of the applicant for perjury or false swearing.

(d) The office may not withhold the timely provision of public defender services for delay or failure to fill out an application. However, a court may find a person in civil contempt of court for a person's unreasonable delay or failure to comply with the provisions of this subsection (2).

(3) An applicant is indigent if:

(a) the applicant's gross household income, ~~as defined in 15-30-171,~~ is at or less than 133% of the poverty level set according to the most current federal poverty guidelines updated periodically in the federal register by the United States department of health and human services under the authority of 42 U.S.C. 9902(2); or

(b) the disposable income and assets of the applicant and the members of the applicant's household are insufficient to retain competent private counsel without substantial hardship to the applicant or the members of the applicant's household.

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(4) A determination of indigence may not be denied based solely on an applicant's ability to post bail or solely because the applicant is employed.

(5) A determination may be modified by the office or the court if additional information becomes available or if the applicant's financial circumstances change.

(6) The commission shall establish procedures and adopt rules to implement this section. Commission procedures and rules:

(a) must ensure that the eligibility determination process is fair and consistent statewide;

(b) must allow a qualified private attorney to represent an applicant if the attorney agrees to accept from the applicant a compensation rate that will not constitute a substantial financial hardship to the applicant or the members of the applicant's household;

(c) may provide for the use of other public or private agencies or contractors to conduct eligibility screening under this section;

(d) must avoid unnecessary duplication of processes; and

(e) must prohibit individual public defenders from performing eligibility screening pursuant to this section.

(7) For the purposes of this section, the following definitions apply:

(a) "Gross household income" means all income received by all individuals of a household while they are members of the household.

(b) (i) "Household" means an association of persons who live in the same dwelling, sharing its furnishings, facilities, accommodations, and expenses.

(ii) The term does not include bona fide lessees, tenants, or roomers and boarders on contract.

(c) "Household income" means the amount obtained by subtracting \$6,300 from gross household income.

(d) "Income" means federal adjusted gross income, without regard to loss, as that quantity is defined in the Internal Revenue Code, plus all nontaxable income, including but not limited to:

(i) the amount of any pension or annuity, including Railroad Retirement Act benefits and veterans' disability benefits;

(ii) the amount of capital gains excluded from adjusted gross income;

(iii) alimony;

(iv) support money;

(v) nontaxable strike benefits;

(vi) cash public assistance and relief;

(vii) interest on federal, state, county, and municipal bonds; and

(viii) all payments received under federal social security except social security income paid directly to a nursing home."

Insert: "Section 24. Section 53-4-1103, MCA, is amended to read:

"53-4-1103. Definitions. For purposes of this part, the following definitions apply:

(1) "Comprehensive" means health insurance having benefits at least as extensive as those provided under the children's health insurance program.

(2) "Department" means the department of public health and human services provided for in 2-15-2201.

(3) "Enrollee" means a child who is enrolled or in the process of being enrolled in the plan, including children already enrolled in the programs described in 53-4-1104(2).

(4) (a) "Enrollment partner" means an organization or individual approved by the department to assist in enrolling eligible children in the plan.

(b) An enrollment partner may be but is not limited to:

(i) a licensed health care provider;

(ii) a school;

(iii) a community-based organization; or

(iv) a government agency.

(5) "Health coverage" means a program administered by the department or a disability insurance plan, referred to in 33-1-207(1)(b), that provides public or private health insurance for children.

(6) "Income" has the meaning provided in ~~15-30-171(9)(a)~~ 47-1-111.

(7) "Plan" means the healthy Montana kids plan established in 53-4-1104.

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(8) "Premium" means the amount of money charged to provide coverage under a public or private health coverage plan.

(9) "Presumptive eligibility" has the meaning provided in 42 CFR 457.355."

Insert: "Section 25. Section 53-6-1001, MCA, is amended to read:

"53-6-1001. Definitions. As used in this part, unless the context requires otherwise, the following definitions apply:

(1) "Average wholesale price" means the wholesale price charged on a specific drug that is assigned by the drug manufacturer and is listed in a nationally recognized drug pricing file.

(2) "Department" means the department of public health and human services provided for in Title 2, chapter 15, part 22.

(3) "Discounted price" means a price set by the department by rule pursuant to 53-6-1002.

(4) "Gross household income" has the meaning provided in ~~15-30-171~~ 47-1-111.

(5) "Manufacturer" means a manufacturer of prescription drugs and includes a subsidiary or affiliate of a manufacturer.

(6) "Participating retail pharmacy" means a retail pharmacy located in this state or another business licensed to dispense prescription drugs in this state that is medicaid-approved.

(7) "Program" means the prescription drug plus discount program provided for in 53-6-1002.

(8) "Secondary discounted price" means the discounted price less any further discounts funded by manufacturer rebates for medication purchased by participants in the program."

Renumber: subsequent sections

26. Page 24, line 24 through line 28.

Strike: section 13 in its entirety

Renumber: subsequent sections

27. Page 25, line 7.

Following: "INSTRUCTION."

Insert: "(1) [Sections 1 through 8] are intended to be codified as an integral part of Title 15, chapter 30, and the provisions of Title 15, chapter 30, apply to [sections 1 through 8].

(2)"

Strike: "5"

Insert: "15"

28. Page 25, line 9.

Strike: "5"

Insert: "15"

29. Page 25, line 14.

Insert: "NEW SECTION. **Section 30. Repealer.** Sections 15-6-191, 15-6-193, 15-6-211, 15-30-171, 15-30-172, 15-30-173, 15-30-174, 15-30-175, 15-30-176, 15-30-177, 15-30-178, and 15-30-179, MCA, are repealed."

Amendment **not** adopted as follows:

Yeas: Branae, Brueggeman, Cooney, Erickson, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.

Total 23

Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Curtiss, Esp, Essmann, Gallus, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser,

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Tutvedt, Zinke, Mr. President.
Total 27

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 658 - Senator Gillan moved **HB 658**, second reading copy, be amended as follows:

1. Title, page 1, line 20 through line 22.

Strike: "EXEMPTING;" on line 20 through "SUBDIVISIONS;" on line 22

2. Page 10, line 10 through line 11.

Strike: section 5 in its entirety

Renumber: subsequent sections

3. Page 25, line 7 through line 9.

Strike: section 15 in its entirety

Renumber: subsequent sections

Amendment **not** adopted as follows:

Yeas: Branae, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.
Total 23

Nays: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.
Total 27

Absent or not voting: None.
Total 0

Excused: None.
Total 0

HB 658 - Senator Essmann moved **HB 658**, as amended, be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Keane, Laible, Larsen, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Windy Boy, Zinke, Mr. President.
Total 30

Nays: Branae, Brueggeman, Cooney, Erickson, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams.
Total 20

Absent or not voting: None.
Total 0

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Excused: None.
Total 0

HJR 31 - Senator McGee moved **HJR 31** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.
Total 26

Nays: Branae, T. Brown, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.
Total 24

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Peterson moved the committee rise, report progress, and beg leave to sit again. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman Barkus moved the Committee of the Whole report be adopted. Report adopted unanimously.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Bales in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 457 - Conference Committee Report No. 1 - Senator Branae moved the Conference Committee report to **SB 457** be adopted. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.

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Total 0

SB 260 - House Amendments - Senator Gillan moved House amendments to **SB 260** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 460 - House Amendments - Senator Story moved House amendments to **SB 460** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 465 - House Amendments - Senator Hamlett moved House amendments to **SB 465** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

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Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 467 - House Amendments - Senator Balyeat moved House amendments to **SB 467** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 508 - House Amendments - Senator Brueggeman moved House amendments to **SB 508** be concurred in. Motion carried as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.

Total 40

Nays: Balyeat, R. Brown, Esp, Hinkle, Jackson, Juneau, Kaufmann, Keane, Stewart-Peregoy, Windy Boy.

Total 10

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 489 - House Amendments - Senator Essmann moved House amendments to **SB 489** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt,

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Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 491 - House Amendments - Senator Lewis moved House amendments to **SB 491** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 263 - House Amendments - Senator Shockley moved House amendments to **SB 263 not** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

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SB 418 - House Amendments - Senator Branae moved House amendments to **SB 418 not** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 49

Nays: McGee.
Total 1

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 507 - House Amendments - Senator Story moved House amendments to **SB 507 not** be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 50

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Senator Peterson moved the committee rise, report progress, and beg leave to sit again. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman Barkus moved the Committee of the Whole report be adopted. Report adopted unanimously.

MOTIONS

Senator Esp moved to reconsider the Committee of the Whole Report from earlier this day. Motion carried.

Senator Esp moved to reconsider the action on the House amendments on **SB 119**. Motion carried.

Senator Esp moved that the House amendments to **SB 119** be placed on second reading this day.

Senator Peterson moved to adopt the earlier Committee of the Whole Report.

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Senator Peterson moved a Conference Committee be appointed for **HB 263**. Motion carried. President Story appointed Senator Shockley (Chair), Senator Liabe, and Senator Jent.

Senator Peterson moved a Conference Committee be appointed for **SB 418**. President Story appointed T. Brown (Chair), Senator Branae, and Senator Essmann.

Peterson move Free Conference Committee on **SB 507**. Motion carried. President Story appointed Senator McGee (Chair), President Story, and Senator Hamlett.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Barkus in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

HB 662 - Senator Murphy moved **HB 662** be concurred in. Motion carried as follows:

Yeas: Black, Branae, T. Brown, Brueggeman, Cooney, Erickson, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Laible, Larsen, Laslovich, Lewis, Moss, Murphy, Perry, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams.

Total 30

Nays: Bales, Balyeat, Barkus, Barrett, Brenden, R. Brown, Curtiss, Esp, Essmann, Hinkle, Jackson, Keane, McGee, Peterson, Ripley, Shockley, Tutvedt, Windy Boy, Zinke, Mr. President.

Total 20

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 119 - House Amendments - Senator Esp moved House amendments to **SB 119** not be concurred in. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Erickson, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Shockley, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

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Excused: None.
Total 0

Senator Peterson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman J. Peterson moved the Committee of the Whole report be adopted. Report adopted unanimously.

MESSAGES FROM THE GOVERNOR

April 16, 2009

The Honorable Robert Story
President of the Senate
State Capitol
Helena, Montana 59620

The Honorable Bob Bergren
Speaker of the House
State Capitol
Helena, Montana 59620

Dear President Story and Speaker Bergren:

In accordance with the power vested in me as Governor by the Constitution and laws of the State of Montana, I hereby return with amendments Senate Bill 164, **"AN ACT EXPANDING THE GOOD NEIGHBOR POLICY TO INCLUDE RECREATIONAL LAND AND WATER ACQUIRED BY THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS FOR PUBLIC HUNTING, FISHING, TRAPPING, AND OUTDOOR RECREATION AND ESTABLISHING MAINTENANCE PRIORITIES FOR THAT LAND; DEFINING "MAINTENANCE" AS APPLIED TO PUBLIC RECREATIONAL LAND AND WATER; REQUIRING THAT A PERCENTAGE ABOVE THE PURCHASE PRICE OF THE DEPARTMENT'S ACQUIRED LAND OR WATER RIGHTS BE BUDGETED FOR MAINTENANCE; ESTABLISHING A MAINTENANCE ACCOUNT; PROVIDING A STATUTORY APPROPRIATION; AMENDING SECTIONS 17-7-502, 23-1-126, 23-1-127, AND 87-1-209, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A TERMINATION DATE"** for the following reasons.

SB 164 contains a statutory appropriation from a newly created maintenance account to maintain land or water acquired by the Department of Fish, Wildlife, and Parks. Montana's statute governing statutory appropriations, § 17-7-502, MCA, contains requisites for the validity of statutory appropriations. One requirement is that the statute making the statutory appropriation "must specifically state that a statutory appropriation is made as provided in [17-7-502]." The bill sent to my desk for signature omitted that reference and my amendment cures this defect.

I have discussed my amendment with the sponsor of the bill, Senator Barrett, who supports the amendment.

Sincerely,

BRIAN SCHWEITZER
Governor

GOVERNOR'S AMENDMENTS
TO SENATE BILL 164

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Amendments to Senate Bill No. 164
Reference Copy

Requested by the Governor

For the Senate Committee of the Whole

Prepared by Greg Petesch
May 6, 2009 (12:27pm)

1. Page 7, line 24.

Following: "APPROPRIATED"

Insert: ", as provided in 17-7-502,"

April 16, 2009

The Honorable Robert Story
President of the Senate
State Capitol
Helena, Montana 59620

The Honorable Bob Bergren
Speaker of the House
State Capitol
Helena, Montana 59620

Dear President Story and Speaker Bergren:

In accordance with the power vested in me as Governor by the Constitution and laws of the State of Montana, I hereby return with amendments Senate Bill 268, "**AN ACT REVISING THE LAW REQUIRING CERTAIN VEHICLES TO SECURE CERTAIN LOADS WHEN TRAVELING ON A PUBLIC HIGHWAY; AND AMENDING SECTION 61-8-370, MCA**" for the following reasons:

SB 268 is intended to expand the current law requiring vehicles loaded with solid waste to be secured. My amendments are intended to clarify the bill. They remove the requirement that the vehicle must be operated for a particular "purpose," so that the purpose for which the vehicle is being operated is not relevant to the requirement that the load be secured. They strike what I believe is confusing language about "solid waste" and "nonwaste items" so as to require all vehicle loads to be sufficiently secured so as to protect public safety. And they plainly specify that a commercial vehicle is exempt from the statute being amended, § 61-8-370, MCA, only so long as the commercial vehicle is operating in compliance with all other laws and requirements governing the securement of loads.

Sincerely,

BRIAN SCHWEITZER
Governor

GOVERNOR'S AMENDMENTS
TO SENATE BILL 268

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Amendments to Senate Bill No. 268
Reference Copy

Requested by the Governor

For the Senate Committee of the Whole

Prepared by Greg Petesch
May 6, 2009 (12:27pm)

1. Page 1, line 12.

Strike: "for the purpose of transporting solid waste as defined in 75-10-203"

2. Page 1, line 13.

Strike: "and nonwaste items"

3. Page 1, line 14.

Following: "otherwise"

Insert: "load the vehicle or"

4. Page 1, line 17.

Following: "vehicle"

Insert: "that is operating in compliance with state and federal laws and requirements governing the securing of loads"

April 16, 2009

The Honorable Robert Story
President of the Senate
State Capitol
Helena, Montana 59620

The Honorable Bob Bergren
Speaker of the House
State Capitol
Helena, Montana 59620

Dear President Story and Speaker Bergren:

In accordance with the power vested in me as Governor by the Constitution and laws of the State of Montana, I hereby return with amendments Senate Bill 399, **"AN ACT PROVIDING CHILDREN WITH MENTAL HEALTH NEEDS WITH IN-STATE SERVICE ALTERNATIVES TO OUT-OF-STATE PLACEMENT; ESTABLISHING DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES REPORTING REQUIREMENTS REGARDING HIGH-RISK CHILDREN WITH MULTIAGENCY SERVICE NEEDS; AND AMENDING SECTION 52-2-302, MCA"** for the following reasons:

This bill charges the Department of Public Health and Services ("DPHHS") to vigilantly keep track of high-risk kids with multi-agency service needs, with the end objective of keeping those kids close to home under a "wraparound philosophy of care." I, and DPHHS Director Whiting-Sorrell, share these goals with you.

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As written, Senate Bill 399 requires DPHHS to report its efforts to reduce out-of-state placements to the children, families, health, and human services interim committee on a quarterly basis. My amendments instead require biannual reports by DPHHS.

My understanding is that the bill's purpose is not to micromanage the care provided these children, particularly their medical care, but to establish and evaluate trends and the reasons for those trends. I offer these amendments because I do not believe it is realistic to expect significant, frequent changes in the number of out-of-state placements of children whose medical needs and treatment are extremely complex. Therefore, I believe that biannual reports will provide the interim committee with the information it needs to help it formulate policy, make future legislative decisions, and assess the status of these children and the reasons for out-of-state placements. My amendments also require DPHHS to endeavor to reduce out-of-state placements on an on-going basis.

I have discussed my amendments with the bill's sponsor, Senator Laslovich, and he has indicated his support.

Sincerely,

BRIAN SCHWEITZER
Governor

GOVERNOR'S AMENDMENTS
TO SENATE BILL 399

Amendments to Senate Bill No. 399
Reference Copy

Requested by the Governor

For the Senate Committee of the Whole

Prepared by Greg Petesch
May 6, 2009 (12:27pm)

1. Title, line 8.

Following: "SERVICES"

Insert: "INFORMATION COLLECTION AND"

2. Page 2, line 25.

Strike: "establish quarterly reporting requirements"

Insert: "collect the following information"

3. Page 2, line 26.

Strike: "to identify"

4. Page 3, line 11.

Strike: "Each quarterly report must analyze the efforts"

Insert: "On an ongoing basis,"

Strike: "made"

Insert: "shall attempt"

5. Page 3, line 12.

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Strike: "and establish goals and objectives for improvement in the following quarter"

6. Page 3, line 13.

Strike: "provide each quarterly"

Following: "report"

Insert: "biannually"

7. Page 3, line 14.

Following: "committee"

Insert: "concerning the information it has collected under this section and the results of the efforts it has made to reduce out-of-state placements"

April 16, 2009

The Honorable Bob Bergren
Speaker of the House
State Capitol
Helena, Montana 59620

The Honorable Robert Story
President of the Senate
State Capitol
Helena, Montana 59620

Dear Speaker Bergren and President Story:

In accordance with the power vested in me as Governor by the Constitution and laws of the State of Montana, I hereby return with amendments House Bill 483, **"AN ACT REVISING ENVIRONMENTAL LAWS RELATED TO ENERGY DEVELOPMENT PROJECTS; REVISING BOARD OF ENVIRONMENTAL REVIEW HEARING REQUEST PROCEDURES; REQUIRING A WRITTEN UNDERTAKING TO BE GIVEN BY CERTAIN PARTIES REQUESTING A HEARING OR A STAY BEFORE A COURT OR THE BOARD OF ENVIRONMENTAL REVIEW; MODIFYING THE EXPIRATION DATE REQUIREMENTS FOR A PERMIT OR LICENSE UNDER THE AIR QUALITY LAWS; CLARIFYING REMAND PROCEDURES; CLARIFYING THE USE OF BEST AVAILABLE CONTROL TECHNOLOGY REGULATIONS AND GUIDANCE; REQUIRING THAT THE BOARD OF ENVIRONMENTAL REVIEW ISSUE A FINAL DECISION WITHIN 150 DAYS UNDER THE AIR QUALITY LAWS AND THE MAJOR FACILITY SITING ACT; AMENDING SECTIONS 2-4-623, 2-4-702, 75-2-103, 75-2-211, 75-5-103, AND 75-20-223, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE"** for the following reasons:

House Bill 483, sponsored by Representative Llew Jones, establishes specific administrative procedures for challenging permit decisions for energy development projects made by the Department of Environmental Quality ("DEQ"). The bill covers two primary areas. First, it allows either party in a challenge action (the party challenging the DEQ decision or the party defending the decision) to elect to have the challenge decided by either the Board of Environmental Review or directly by a district court judge. Second, the bill sets up time frames under which challenges must be brought, limits the matters subject to challenge, establishes circumstances under which bonding will be required, and defines standards of review for the reviewing entity.

While detailed, my amendments are fairly straightforward and primarily for the purpose of ensuring that the complex details of the bill are fair and equal for all parties involved in a challenge. My amendments also are intended to

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clarify aspects of the bill that, after working its way through amendments in both houses, I believed were confusing.

In this veto message I highlight three areas that I believe constitute my most substantive amendments. First, I add to the matters that may be raised by a party in a challenge to a final permit decision any material change made by DEQ to the draft permit submitted for public comment upon which the public did not have a meaningful opportunity to comment. Second, I change certain time frames to be more workable. For example, under my amendments, the "clock" begins to run for a final agency decision from the date of the hearing on the merits, or if no hearing is held, from the date briefing by the parties is complete, rather than from the date of the initial challenge. I also include a new provision directing the Board of Environmental Review to require the parties to prepare their case for hearing without unreasonable delay. Finally, my amendments establish the reviewing standard to a "best available control technology" determination based on fact versus law. I leave intact the requirement that the DEQ decision must be given deference by the Board or a district court. Rather than the "clear and convincing" reviewing standard contained in the bill, my amendments ensure that the reviewing entity (the Board or the district court) has the power to correct the DEQ determination if it was incorrect as a matter of law. In order to correct a factual determination by DEQ, the reviewing entity must find the factual basis "clearly erroneous."

HB 483 is a technical, legally detailed bill concerning challenges to DEQ permit decisions on energy development projects, and my amendments are by necessity technical and detailed, as well. In sum, I believe they improve the bill for all parties involved in these types of legal challenges.

I ask you to join me and Rep. Jones, the bill's sponsor, in supporting my proposed amendments.

Sincerely,

BRIAN SCHWEITZER
Governor

GOVERNOR'S AMENDMENTS
TO HOUSE BILL 483

Amendments to House Bill No. 483
Reference Copy

Requested by the Governor

For the House Committee of the Whole

Prepared by Greg Petesch
May 6, 2009 (12:27pm)

1. Title, line 9.

Strike: "CLARIFYING REMAND PROCEDURES;"

2. Title, line 10.

Strike: "REQUIRING THAT"

Insert: "ESTABLISHING DEADLINES FOR"

3. Title, line 11.

Following: "REVIEW"

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Insert: "TO"
Strike: "WITHIN"
Strike: "150 DAYS"

4. Page 1, line 23.
Strike: "the party has"

5. Page 1, line 24.
Following: "period"
Strike: "₂"
Following: "FEDERAL"
Insert: "or state"
Following: "LAW"
Strike: "OR"
Insert: "made during the comment period,"

6. Page 1, line 25.
Strike: "and the"
Insert: "or to a material change to the draft permit, which was submitted for public comment, made by the department in the final permit decision and upon which the public did not have a meaningful opportunity to comment. The"
Strike: "15"
Insert: "30"

7. Page 2, line 9.
Strike: "30"
Insert: "15"

8. Page 2, line 11.
Strike: "30"
Insert: "15"

9. Page 2, line 13.
Following: "located."
Insert: "(iv)"
Strike: "the applicant or permittee fails to make an election"
Insert: "a party does not elect to submit the matter directly to district court"
Renumber: subsequent subsections

10. Page 2, line 15.
Strike: "application was filed"
Insert: "department issued its decision"

11. Page 2, lines 16 and 17.
Following: "~~evidence~~" on line 16
Strike: remainder of line 16 through "permittee" on line 17
Strike: "first"

12. Page 2, line 18.

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Following: "FEDERAL"

Insert: "or state"

Following: "LAW"

Strike: "OR"

Insert: "made during the comment period,"

13. Page 2, line 19.

Following: "PERIOD"

Insert: "or to a material change to the draft permit, which was submitted for public comment, made by the department in the final permit decision and upon which the public did not have a meaningful opportunity to comment"

14. Page 2, line 23.

Strike: "._"

15. Page 2, lines 26 through 29.

Strike: "(II)" on line 26 through "(II)" on line 29

Insert: "if"

Strike: "NOT"

16. Page 2, line 30.

Following: "CAUSE"

Insert: "unnecessary"

Strike: "._OR"

Insert: "without a reasonable basis in law or fact."

17. Page 3, line 1.

Strike: "(B) THE"

Insert: "(ii) The board or the district court may not require a written undertaking if the"

18. Page 3, lines 5 and 6.

Following: "unless" on line 5

Strike: remainder of line 5 through "filed" on line 6

Insert: "the determination was incorrect as a matter of law or the factual basis for the determination was clearly erroneous"

19. Page 3, lines 7 and 8.

Strike: "150 days" on line 7

Insert: "4 months"

Following: "from" on line 7

Strike: remainder of line 7 through "hearing" on line 8

Insert: "the close of the hearing on the merits or, if no hearing is held, within 3 months from the date that briefing by the parties is complete"

20. Page 3, line 9.

Following: "time."

Insert: "The board shall require the parties to prepare the case for hearing without unreasonable delay."

21. Page 3, lines 18 and 19.

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Following: "diligence." on line 18

Strike: remainder of line 18 through "shown." on line 19

22. Page 6, line 13.

Following: "infrastructure"

Insert: ", as defined by board rule,"

23. Page 12, line 16.

Following: "directly"

Insert: "and"

24. Page 14, line 3.

Following: "infrastructure"

Insert: ", as defined by board rule,"

25. Page 18, line 17.

Strike: "."

26. Page 18, line 20 through line 23.

Strike: "(2)" on line 20 through "(II)" on line 23

Insert: "if"

Strike: "NOT"

27. Page 18, line 23.

Following: "CAUSE"

Insert: "unnecessary"

28. Page 18, line 24.

Strike: " OR "

Insert: "without a reasonable basis in law or fact."

29. Page 18, line 25.

Strike: "(B) THE"

Insert: "(2) The district court may not require a written undertaking if the"

30. Page 19, line 7.

Strike: "FEDERAL"

Strike: "OR"

Insert: "made during the comment period,"

Strike: "and the"

Insert: "or to a material change to the draft permit, which was submitted for public comment, made by the department in the final permit decision and upon which the public did not have a meaningful opportunity to comment. The"

31. Page 19, line 8.

Strike: "15"

Insert: "30"

32. Page 19, line 19.

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Strike: "30"
Insert: "15"

33. Page 19, line 21.

Strike: "30"
Insert: "15"

34. Page 19, line 25.

Strike: "application was filed"
Insert: "department issued its decision"

35. Page 19, lines 26 and 27.

Following: "party" on line 26
Strike: remainder of line 26 through "permittee" on line 27
Strike: "first"

36. Page 19, line 28.

Following: "period"
Insert: "unless the issue is related to a material change in law made during the comment period, to a judicial decision issued after the comment period, or to a material change to the draft permit, which was submitted for public comment, made by the department in the final permit decision and upon which the public did not have a meaningful opportunity to comment"

37. Page 20, line 6 through line 7.

Following: "120" on line 6
Strike: remainder of line 6 through "section" on line 7
Insert: "4 months from the close of the hearing on the merits or, if no hearing is held, within 3 months from the date that briefing by the parties is complete"

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Peterson moved that the Senate adjourn until 11:00 a.m., Friday, April 17, 2009. Motion carried.

Senate adjourned at 3:59 p.m.

MARILYN MILLER
Secretary of the Senate

ROBERT STORY
President of the Senate